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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

HIRL, JOSEPH P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2129

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,958

Applicant(s)

BELNIAK ET AL.

Examiner

Joseph P. Hirl

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 11, 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-10 are pending in this application.

Oath/Declaration

2. It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Specification

3. The specification appears to be a draft copy that was not completely edited. Specifically, there are incomplete prior art references @ para 0045, l 2; para 0057, l 4; para 0071, l 2.

This objection must be corrected.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "in a reduced time period" is relative and renders the subject claim indefinite.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Underwood (U.S. Patent 6,601,233, referred to as **Underwood**).

Claim 1

Underwood anticipates a memory to store a series of historical records and results, where each record contains a set of data values for a corresponding set of variables (**Underwood**, c 312, l 66-67; c 313, l 1-9; c314, l 19-29); a transaction input unit to convey corresponding data values of a transaction for which a decision is to be made (**Underwood**, c 22, l 24-42; c 22, l 60-67; c 23, l 1-8); a decision output unit to convey a recommended decision (**Underwood**, c 2, l 5-21); a self-configuring modeler

to configure itself based upon information stored in memory in order to predict expected results from any set of data values (**Underwood**, c 11, l 44-67; c 12, l 1-3; c 13, l 7-14; Examiner's Note (EN): para 11 below applies; self-configuring modeler is embodied in the object oriented programming concept where the model accepts the data made available to it and appropriately self adjusts (calculates) an output); and a controller coupled to the modeler and the transaction input unit to generate a decision output (**Underwood**, Fig. 17A; c 3, l 45-52; c 53, l 39-51; EN: para 11 below applies; Underwood exhaustively teaches business components framework which makes full use of object oriented programming (OOP – c 11, l 35-67; c12-15; c 16, l 1-16) wherein the full range of data, memory, transaction, decision, flexibility and controlling are applied and the applicable models self-configure to such input data to generate an output; Underwood further teach how such a system is managed).

Claims 2, 8

Underwood anticipates an output unit to convey a probability or expected value of an expected result given the decision (**Underwood**, para 11 below applies; Fig. 17A; c 3, l 45-52; c 53, l 39-51; c 2, l 5-21; EN: the coded module deployed to the e-commerce environment will provide an output which is an expected value).

Claims 3, 9

Underwood anticipates an output unit to convey a model produced by the modeler (**Underwood**, c 11, l 44-67; c 12, l 1-3; c 13, l 7-14; EN: para 11 below applies; self-configuring modeler is embodied in the object oriented programming concept where

the model accepts the data made available to it and appropriately self adjusts (calculates) an output; such output conveys the model produced by OOP).

Claims 4, 10

Underwood anticipates a previously configured modeler (**Underwood**, c 11, l 44-67; c 12, l 1-3; c 13, l 7-14; EN: para 11 below applies; the previous configured modeler was established with the prior set of input data; the model adjust with input as it was designed to do).

Claim 5

Underwood anticipates the model is continuously updated with each transaction (**Underwood**, c 2, l 5-51; c 11, l 44-67; c 12, l 1-3; c 13, l 7-14; EN: para 11 below applies; such would be the next set of input data that would update the model with new input values).

Claim 6

Underwood anticipates the modeler configures itself to recommend an optimal solution and reduced time period (**Underwood**, c 2, l 5-51; EN: para 11 below applies; the solution under the given set of conditions would be appropriate or optimal and would be available; the term "reduced time period" is indefinite and was not evaluated).

Claim 7

Underwood anticipates determining statistical probabilities of each combination of data values (**Underwood**, c 91, l 1-7); applying the statistical probabilities to determine an optimal predictive model (**Underwood**, c 91, l 10-15); applying a transaction consisting of a new set of data values to the predictive model in order to

yield an expected set of probabilities for a result of each possible decision (**Underwood**, c 91, l 1-7); presenting the representation to a control mechanism capable of enacting decisions based on the knowledge represented (**Underwood**, Fig. 17A; c 3, l 45-52; c 53, l 39-51; EN: para 11 below applies; Underwood exhaustively teaches business components framework which makes full use of object oriented programming (OOP – c 11, l 35-67; c12-15; c 16, l 1-16) wherein the full range of data, memory, transaction, decision, flexibility and controlling are applied and the applicable models self-configure to such input data to generate an output); and generating a decision output (**Underwood**, c 2, l 5-51; EN: such is the result of the deployment of modules to the e-commerce environment).

Examination Considerations

8. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the

art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

9. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

10. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

11. Examiner's Opinion: Paras 8-10 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

12. The prior art of record and not relied upon is considered pertinent to applicant's disclosure.

- Bowman-Amuah, U.S. Pub 2003/0058277
- Kauffman, U.S. Pub 2001/0032029

- Bowman-Amuah, U.S. Patent 6,615,199
- Robbins, U.S. Patent 5,881,301

13. Claims 1-10 are rejected.

Correspondence Information

14. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (571) 272-3685. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anthony Knight can be reached at (571) 272-3687.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,
Washington, D. C. 20231;

or faxed to:

(703) 872-9306 (for formal communications intended for entry);

or faxed to:

(571) 273-3685 (for informal or draft communications with notation of "Proposed" or "Draft" for the desk of the Examiner).

Joseph P. Hirl

March 31, 2005

